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NO. 81-2370

IN THE

# Supreme Court Of The United States

OCTOBER TERM, 1981

CONNIE LOUISE LASCANO,

*Petitioner,*

VS.

STATE OF ARKANSAS,

*Respondent.*

## REPLY BRIEF FOR PETITIONER

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## QUESTIONS PRESENTED FOR REVIEW

1. Whether or not a suspect must be advised of his or her rights under *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct. 1602, and related cases, prior to any interrogation by the police officers.

2. Whether the petitioner's rights under *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct. 1602, and related cases, were violated by the authorities in this case.

3. Whether the police may continue to use a psychological approach on a suspect in the form of statements to the suspect after the suspect indicates that the questioning is at an end.

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Argument in this reply brief will be confined to the second question presented for review as to whether the petitioner's rights under *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct. 1602, 10 ALR 3rd 1060, were violated.

To summarize, this defendant was taken to the sheriff's office on October 26, 1980. There interrogation was started. After she had incriminated herself in that that she had last seen the deceased at about the time of the homicide; her *Miranda* rights were then read to her and she was formally charged and placed in jail. Then on the 27th day of October, 1980, she was taken from the jail where she had been held in custody to be interviewed by the sheriff of Washington County (R. 159). Her rights were not again read to her;

however, the sheriff did ask her if she was still "aware of her rights" and she said she was. At a point in the interrogation and before she had made any confession, she informed the sheriff that she did not want to answer any more questions and that she didn't want to talk to him any more (R. 210-11). This did not stop the sheriff and a further interrogation resulted in a confession to the sheriff (R. 160-61). After this confession, and on the same day at 7:01 p.m., Sgt. Doug Fogley of the Arkansas State Police wrote out a confession based on the contents of the previous interview, that same day, with Sheriff Marshall (R. 515-17). Sgt. Fogley then read to the defendant/petitioner her *Miranda* rights and read the written statement to her and had her sign it.

The State has failed to touch upon this sequence of events in regards to the request by the petitioner that interrogation stop. The petitioner testified:

> "I told Sheriff Marshall not to talk to me anymore. This was in the middle of the interview. I told him that I didn't want to answer anymore questions. He had told me the night before that I didn't have to (R. 210). Then he said I had to answer the questions or Ben would be brought in. I also thought I could say I didn't want to answer anymore questions and they wouldn't question me anymore. When I tried that, the Sheriff just kept on (R. 210)."
>
> "Q. What did he say to you?
>
> A. Well, after I told him I didn't want to answer anymore of his questions, he said I had to

> answer questions. If they didn't find the gun they would still involve Ben in conspiracy charges. I refused to say anything at first and that I didn't want to say anymore. Then he kept going on about how he needed the gun (R. 211)."

In *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct. 1602, 10 ALR 3rd 1060, at 35-37:

> "Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner at any time prior to or during questioning that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege. Any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise."

Sgt. Fogley, when he wrote the confession which the petitioner signed, knew of her statements to the sheriff. He wrote in substance what she had told the sheriff just a short time before, read it to her and had her sign it. The gist of this is that the confession was made to Sheriff Marshall after the petitioner had indicated that she wanted the interrogation to cease. The damage was done.

## CONCLUSION

The petitioner respectfully prays this Court to issue a certiorari to the Arkansas Supreme Court.

Respectfully submitted,

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